REMARKS

As noted in the Office Action of June 29, 2007, Claims 1-52 are pending in the Application. Claims 53-56 have been added.

Specification Amendments

The specification was amended to correct typographical errors. No new matter has been introduced by any of the amendments to the specification.

Restriction

The Examiner has divided the claims into the following three inventions:

I. Claims 1-31, drawn to an appliance for administering a reduced pressure treatment to a wound, classified in class 602, subclass 53.

II. Claims 32-47, drawn to an apparatus for treating a wound, classified in class 606, subclass 201.

III. Claims 48-52, drawn to a method of treating a wound, classified in class 604, subclass 290.

As stated above, the Office Action restricts the claims to one of three inventions. Applicants respectfully traverse the restriction requirement with respect to the restriction of Claims 1-47, corresponding to Inventions I & II, and respectfully request reconsideration.

The Office Action states that the Inventions I & II are distinct because, "[i]n the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the apparatus does not require an absorbable matrix."[1] Further, the Office Action states that the "subcombination has separate utility such as a wound treatment device that merely applies an absorbable matrix to the wound and does not collect fluid from the wound."

This conclusion, however, is based on the false premise that the appliance (or subcombination, as denoted in the Office Action) does require an absorbable matrix. In fact, none of the appliances set forth in independent Claims 6, 14, or 24 requires an absorbable matrix. Moreover, none of the seven dependent claims depending from Claim 6 and none of the seven dependent claims depending from Claim 24 require an absorbable matrix, and only one of the

[1] Note that the combination is defined in the Office Action as the invention of Claims 32-47 and that the subcombination is defined in the Office Action as the invention of Claims 1-31.

nine dependent claims depending from Claim 14 requires an absorbable matrix, namely Claim 17. In sum, Applicants respectfully disagree that the restriction requirement is proper because, as stated above, it is based on the incorrect premise that the subcombination requires an absorbable matrix, which it does not.

Additionally, the Office Action does not state that there would be a serious burden if the restriction were not required, and sets forth no reasoning that would support this conclusion or any reasoning that supports the separate classifications for the inventions listed in the Office Action. MPEP § 808.02 provides (emphasis added), "[w]here the inventions as claimed are shown to be independent or distinct ..., the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following: (A) Separate classification . . . (B) A separate status in the art when they are classifiable together . . . (C) A different field of search . . . ." This explanation has not been set forth, as required by MPEP § 808.02.

The Office Action concludes that the subcombination falls under Class 602, Subclass 53, and that the combination falls under Class 606, Subclass 201. Class 602 is defined as covering "Surgery: Splint, Brace, or Bandage." Subclass 53 concerns subject matter wherein the wound contact surface includes an element which generates pressure on the wound by direct or indirect contact with the wound. Class 606 is defined as covering merely "Surgery." Subclass 201 concerns subject matter wherein structural means is applied to an external portion of the body to provide a compressive force to restrict or to stop the flow of blood from or through said body portion or to provide treatment for pain or disease by means of force application to one or more predetermined portions of the body.

Regardless of whether the Applicants agree with the propriety of either of the classifications, there is no reasoning set forth in the Office Action justifying why the Examiner has chosen to classify the subcombination under one class (i.e., Class 602, Subclass 53), and the combination under another (i.e., Class 606, Subclass 201). Further, Applicants disagree that the inventions of Claims 1-31 should be categorized differently than the inventions of Claims 32-47. Applicants believe that there would be no burden on the Examiner if the restriction were not

required, and that, therefore, the restriction requirement between the inventions of Claims 1-31 and the inventions of Claims 32-47 is improper.

Applicants therefore request that the Examiner proceed with examination of Claims 1-47. However, in case the Examiner maintains the restriction, and in order to provide a complete response to the Office Action, Applicants provisionally elect Invention I, corresponding to Claims 1-31. Claims 48-52 are canceled without prejudice. Applicants reserve the right to present these claims at a later date.

Claim Amendments

Claims 45-47 have been amended to correct typographical errors. Claims 48-52 are canceled without prejudice. Applicants reserve the right to present these claims at a later date.

New Claims 53-56 have been added. These claims are fully supported by the application as filed. Accordingly, no new matter has been introduced by this Amendment. The new Claims 53-56 are directed to Invention I as designated by the Examiner, and are, in the Applicants' judgment, appropriately added to this Application.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 7-27-07

By: _____

Sabing H. Lee
Registration No. 43,745
Attorney of Record
Customer No. 20,995
(949) 760-0404

4000710:jm/df1
072607